

REMARKS

Applicant submits herewith an updated Information Disclosure Statement and a check in the amount of \$180.00 in payment. Also enclosed is a check for \$60.00 in payment of the one-month extension fee.

The Examiner rejected claims 1-4, 7, 8 and 10-15 under 35 USC 102(b) as anticipated by the Millasich (USPN 5,143,242). The Examiner will note that applicant's independent claims 1, 10 and 12 and dependent claims 7, 11 and 13 have been amended to further define applicant's device and now include one or more elongated vertical openings or slots provided in the interior liner to effect full, self-sealing deployment of a trash bag positioned inside the liner, from the top to the bottom of the liner without collapsing of the bag inside the liner. A close review of the Millasich patent fails to detail any such elongated vertical opening, openings or slots provided in a liner, the Millasich patent being limited to an opening or openings located in the bottom of the bucket, with an air valve in association with the opening to pull a vacuum on the plastic bag or "liner" in the bucket from the bottom of the bucket. There is no teaching, suggestion or disclosure of elongated, vertical openings or slots provided in a liner insert wall to effect a smooth, full and self-sealing deployment of substantially the entire flexible bag placed in the liner against the liner wall.

Reference is made to MPEP 2131 which reads as follows: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". Verdegaal Bros. vs. Union Oil Company of California, 2 USPQ 2nd 1051, 1053 (Fed.Cir.1987). It is respectfully submitted that since the Millasich patent does not detail or disclose any such elongated vertical openings or slots provided in an interior liner

for deploying a plastic bag or insert in the liner, Millasich does not anticipate applicant's amended and independent claims 1, 10 and 12 and therefore, corresponding dependent claims 2-4, 7, 8 and 11-15, within the contemplation of 35 USC 102(b). Reconsideration and allowance of rejected claims 1-4, 7, 8 and 10-15 in light of the amendments to independent claims 1, 10 and 12 and dependent claims 7, 11 and 13, is therefore respectfully solicited.

The Examiner further rejected claims 1, 5, 9, 12, 16 and 17 under 35 USC 103(a) as unpatentable over the patent to Millasich as applied to claim 1 or 12, taken in view of the patent to Brennan (USPN 6,554,151). The Examiner will again note that applicant's independent claims 1, 10 and 12 and dependent claims 7, 11 and 13 have been amended to further define applicant's device and now include one or more elongated vertical openings or slots provided in the insert or liner receiving an inserted plastic bag along substantially the entire length of the bag. A close review of the Brennan patent reveals that patent fails to detail any such elongated vertical openings or slots in a liner, the Brennan disclosure and claims being limited to a waste receptacle fitted with an air freshener component at the bottom of the receptacle and designed such that a flow of air can be extended through the opening and the air freshener to allow placement and withdrawal of a plastic bag from the interior of the receptacle without vacuum interference.

Reference is made to MPEP, Sec.2143.01, page 2100-127 which reads as follows: "There are three possible sources for motivation to combine references: the nature of the problem to be solved, the teachings of the prior art and the knowledge of persons of ordinary skill in the art". In Re Rouffet, 47 USPQ, 2nd 1453, 1457-58 (Fed.Cir.19198). Further noted is the statement, "In determining the propriety of the patent office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient to one

of ordinary skill in the art in the relevant art having the reference before him to make the proposed substitution, combination or other modification". In Re Lintner, 173 USPQ 560, 562 (CCPA 1972).

As discussed above, it is respectfully submitted that neither the Millasich nor the Brennan patent, taken alone or in combination teach, suggest or disclose the provision of one or more openings or slots vertically located in elongated fashion in a liner inserted in a receptacle to create an annulus for the purpose of deploying a plastic bag inside the liner in a secure, even and self-sealing manner, substantially from top to bottom, thus avoiding collapse of the plastic bag inside the liner. In the case of both the Millasich and Brennan patents, the vacuum or air connections are applied from the bottom of the receptacles and therefore tend to facilitate collapse of the bag into the bottom of the receptacles rather than even, self-sealing deployment around the outside perimeter or periphery of a liner, as in the case of applicant's invention as embodied in his amended claims. Reference is also made to the Walton et al patent, U.S. 2,364,012; the Bard patent, U.S. 4,294,379; the Barnett et al patent, U.S. 5,492,241; the Gray patent, U.S. 7,273,155; the Camp Jr. patent application publication, U.S. 2004/0238541; and the Camp Jr. et al patent application publication no. U.S. 2004/0238542. These patents and application publications were submitted by Information Disclosure Statement with this response to the Examiner's office action and each include devices located at the bottom of a receptacle and/or liner to facilitate pulling a vacuum or allowing the entry of air into the receptacle at the bottom or through conduits extending from top to bottom, to negate the effect of vacuum in the receptacle when a bag is either replaced or withdrawn. It is respectfully submitted that nowhere in these patent references or any of the patent references of record is there any disclosure,

teaching or suggestion of elongated, vertical openings or slots provided in a liner inside a receptacle to facilitate a more even application of vacuum through an annulus between the liner and receptacle, in order to more completely and uniformly distribute a plastic bag inside the liner in self-sealing relationship and prevent the bag from collapsing to the bottom of the liner.

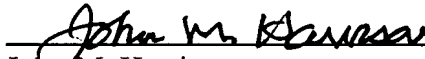
It is therefore respectfully submitted that one skilled in the art, upon reviewing the Millasich and Brennan patents, as well as the other patents placed of record noted above and in the Information Disclosure Statement filed with this response could not reasonably apply the teachings of applicant's invention as embodied in his amended claims, since these patents do not teach, suggest or disclose one or more elongated vertical openings or slots provided in a liner to facilitate optimum deployment of a plastic bag inside the liner by application of a vacuum. It is further respectfully submitted that there is no teaching or suggestion in any of the patents or application publications of record to motivate one skilled in the art to use any such vertical liner opening, openings or slots which are elongated, to facilitate such efficient bag deployment by vacuum. It is therefore respectfully solicited that it would not be reasonable to assume that one skilled in the art looking at these patents might also build applicant's device using his vertical and elongated slots or liner openings for this purpose and that applicant's claims 1, 5, 9, 12, 16 and 17 are not made obvious by reference to the patents and patent publications of record.

Reconsideration and allowance of rejected claims 1, 5, 9, 12, 16 and 17 is therefore respectfully solicited in light of the amendments to independent claims 1, 10 and 12 and dependent claims 7, 11 and 13 and the above remarks.

Every effort has been made to amend applicant's claims in order to define his invention in

the scope to which it is entitled. Accordingly, reconsideration and allowance of applicant's amended claims 1-17 is respectfully solicited.

Respectfully submitted,



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